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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/169,127	12/20/1993	HISATO SHINOHARA	0756945	2677
22204	7590	12/27/2005	EXAMINER	
NIXON PEABODY, LLP 401 9TH STREET, NW SUITE 900 WASHINGTON, DC 20004-2128			PADGETT, MARIANNE L	
			ART UNIT	PAPER NUMBER
			1762	

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/169,127

Applicant(s)

SHINOHARA ET AL.

Examiner

Marianne L. Padgett

Art Unit

1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10/7/2005 & 6/20/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 61-96, 101-109 and 131 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 61-96, 101-109 and 131 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

Art Unit: 1762

1. The application's prosecution is being reopened, since the amendment of 6/20/2005 has made moot the previously outstanding rejections of the 5/19/04 final action due to cancellation of rejected claims, as well as discussion in the advisory 05/25/05 & interview summary mailed 6/21/05, such that the only rejection will be a new grounds of rejection of obviousness double patenting as discussed in the June 2005 interview, advisory mailed 9/7/2005 and officially restated below. As was noted in the 9/7/05 advisory and agreed to in the June interview, the previously nonelected silicon oxide subspecies were rejoined with the remaining claims, such that there are now no withdrawn claims remaining.

Furthermore, as the Appeal Brief of 10/7/2005 states the issues as all directed to claims that have been canceled & are acknowledged canceled in the Claims Appendix, listing the rejoined claims as still withdrawn, the examiner would probably be required to send out another noncompliant, hence reopening would appear to be the most expeditious way to proceed.

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 61-96, 101-109 & 131 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-39 of U.S. Patent No. 6,261,856

B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent to Shinohara et al (856) were found to contain limitations of the remaining crystallization process claims, where limitations are claimed in different orders, such as in some patented independent claims the semiconductor is generic & in some it is amorphous Si, where

Art Unit: 1762

present claims are all directed to the specific species (α -Si), thus make obvious variations of overlapping scope. It was noted that the insulating (Si Oxide & Si Nitride) layers (claims 1, 6, 17 & 24) in the patent may be called "blocking layers" (claims 27-28 & 33-34) without "ion", but the ion blocking function is inherent or obvious by context of like configurational placement of like compositions in the claimed "active matrix circuit and driving circuit", so is considered equivalently used in the patent claims, especially considering that the patent derives its support for its terms' meaning from the same disclosure as the present case. Note present independent claim semiconductor film thickness of 200-1500 angstroms is in patent claim 8, where use of the thickness for generic semiconductor films, would have been obvious to apply also to the α -Si claimed in other sequences, as it is the only specific semiconductor species claimed in the patent on which crystallization is preformed, hence layer thicknesses for the generic semiconductor film would have been expected to be applicable to the specific silicon by one of ordinary skill in the art.

4. Applicant's arguments filed 10/7/2005 have been fully considered but they are not persuasive.

All discussion in the arguments section of the 10/7/2005 brief are moot for reasons already of record. Although applicants had the above information before them, none of their discussion in the 10/7/05 remarks or the Appeal brief filed therewith, are directed to refuting the appropriateness of ODP over Shinohara et al (856), nor has a terminal disclaimer been filed, instead they allege the claims being condition for allowance, which lacking a TD or sufficient significant supported additions to the present claims, is clearly not agreed with as previously stated.

Art of interest found when updating the search & preformed additional search related to rejoined subspecies of silicon dioxide ion blocking layer include the following copending patent or application publications to the same assignee as the present application: PN 6,964,890 B1 claiming laser irradiation of claimed thicknesses of amorphous silicon on insulator to recrystallize, but lacks ion blocking layer &

Art Unit: 1762

specific scanning technique; PN 6919533 B2 claims multiple irradiations of semiconductor films with a laser light having a linear cross-section to form claimed LC & TFT configurations, but lacks specific thicknesses, ion blocking layers & the technique for achieving linear cross-section; US 2005/0227376 A1 laser recrystallizes for claimed TFT configurations, but the as yet unexamined application's claims lack ion blocking layers, claimed thicknesses & beam shaping/scanning details; PN 6764886 B2 claims crystallization of semiconductor over a generic substrate having an insulation surface, which may encompass treatment of amorphous silicon, with dependent claims 6-7 & 13-14 having shape and movement limitations overlapping with present claims, but lack layer thickness, ion blocking layer, detailed beam spot formation technique; US 2003/0235971 A1 in claims allowed 8/25/04, claim laser irradiation of amorphous semiconductor films on insulating surfaces to crystallize for TFT configurations of interest, where laser light may be converged on to the semiconductor film via a cylindrical lens and moved perpendicularly as claimed, but claims differ by lacking ion blocking layers, claimed thicknesses & means as detailed in present claims for shaping the beam spot; PN 6444506 B1 laser scans semiconductor films using elongated cross sections moved in the claim perpendicular direction, but is on a silicon substrate and deposits the insulating film (Si + N) on islands of the laser treated semiconductor (i.e. the wrong order); and Nakajima et al. (5712191) laser scans silicon semiconductor films on insulating surfaces, using elongated cross sections moved are probably as claimed, patterning for semiconductor islands, but is using a metal catalysts crystallization technique, no claimed ion blocking layers, nor claimed thicknesses, or the details for producing the elongated cross-section.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne L. Padgett whose telephone number is (571) 272-1425. The examiner can normally be reached on M-F from about 8:30 a.m. to 4:30 p.m.

Art Unit: 1762

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy Meeks, can be reached at (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLP 12/20/2005



MARIANNE PADGETT
PRIMARY EXAMINER